

AMENDED IN SENATE MARCH 20, 2017

AMENDED IN SENATE FEBRUARY 22, 2017

SENATE BILL

No. 50

Introduced by Senator Allen
(Coauthors: Senators Hertzberg and McGuire)

December 5, 2016

An act to add Section 27338 to, to add Chapter 3.4 (commencing with Section 6223) to Division 7 of Title 1 of, and to repeal the heading of Chapter 3.4 (commencing with Section 6223) of Division 7 of Title 1 of, the Government Code, and to add Chapter 5 (commencing with Section 8560) to Part 4 of Division 6 of the Public Resources Code, relating to public lands.

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as amended, Allen. Federal public lands: conveyances.

Existing law vests the authority over public lands owned by the state with the State Lands Commission. Existing federal law authorizes federal agencies to convey federal public lands under certain circumstances.

This bill would establish, except as provided, a policy of the state to discourage conveyances of federal public lands in California from the federal government. The bill would specify that these conveyances are void ab initio unless the commission is provided with the right of first refusal or the right to arrange the transfer to a 3rd party. The bill would require the commission, the Wildlife Conservation Board, and the Department of Fish and Wildlife to enter into a memorandum of understanding establishing a state policy that they will undertake all feasible efforts to protect against future unauthorized conveyances of federal public lands or any change in federal public land designation.

The bill would authorize the commission to seek declaratory and injunctive relief in a court of competent jurisdiction to contest these conveyances. The bill would, except as provided, prohibit the commission and a recorder of a county in which the federal public land to be transferred is situated from recording a deed, instrument, or other document related to the conveyance that is void ab initio and would subject a person who violates this prohibition to a civil penalty not to exceed \$5,000. By increasing the duties of the county recorder's office, this bill would impose a state-mandated local program. The bill would prohibit a person from filing a deed, instrument, or other document related to the conveyance of federal public land that is void ab initio and would subject a person who violates this prohibition to a civil penalty not to exceed \$5,000. The bill would require the commission to ensure that transferees of federal public lands in the state are solely responsible for all the costs associated with managing those lands as well as developing infrastructure necessary for all future uses of those lands.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Chapter 3.4 (commencing with
2 Section 6223) of Division 7 of Title 1 of the Government Code is
3 repealed.

4 SEC. 2. Chapter 3.4 (commencing with Section 6223) is added
5 to Division 7 of Title 1 of the Government Code, to read:

6
7 CHAPTER 3.4. RECORDING OF DOCUMENTS
8

9 6223. (a) A person shall not knowingly file or record a deed,
10 instrument, or other document related to a conveyance that is void
11 ab initio pursuant to Section 8560 of the Public Resources Code.
12 A person who files or records a deed, instrument, or other

document in violation of this section is liable for a civil penalty not to exceed five thousand dollars (\$5,000).

(b) Civil penalties collected pursuant to this section shall be deposited into the state General Fund.

SEC. 3. Section 27338 is added to the Government Code, to read:

27338. A deed, instrument, or other document related to a conveyance that is subject to Section 8560 of the Public Resources Code shall not be recorded without a certificate from the State Lands Commission.

SEC. 4. Chapter 5 (commencing with Section 8560) is added to Part 4 of Division 6 of the Public Resources Code, to read:

CHAPTER 5. CONVEYANCE OF FEDERAL LANDS

8560. (a) For purposes of this chapter, the following terms apply:

(1) “*Conservation plan*” means a habitat conservation plan developed pursuant to Section 10 of the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1539) and its implementing regulations, as the federal act and regulations exist as of January 1, 2016, and an approved natural communities conservation plan developed pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code).

~~(1)~~
(2) “Conveyance” includes any method, including sale, donation, or exchange, by which all or a portion of the right, title, and interest of the United States in and to federal lands located in California is transferred to another entity.

~~(2)~~
(3) “Federal public land” means any land owned by the United States, including the surface estate, the subsurface estate, or any improvements on those estates.

~~(3)~~
(4) “Infrastructure” means any development or construction that is not on or appurtenant to the federal public land at the time of transfer.

(b) (1) Except as provided in Chapter 6 (commencing with Section 6441) of Part 1, it is the policy of the State of California

1 to discourage conveyances that transfer ownership of federal public
2 lands in California from the federal government.

3 (2) (A) Except as provided in this chapter, conveyances of
4 federal public lands in California are void ab initio unless the
5 commission was provided with the right of first refusal to the
6 conveyance or the right to arrange for the transfer of property to
7 another entity. The commission may seek declaratory and
8 injunctive relief from a court of competent jurisdiction to contest
9 conveyances made to any entity unless the requirements of this
10 paragraph are met. The commission shall formally consider its
11 right of first refusal or arrange for the transfer of federal lands to
12 a third party at a public hearing.

13 (B) The commission, the Wildlife Conservation Board, and the
14 Department of Fish and Wildlife shall enter into a memorandum
15 of understanding that establishes a state policy that all three
16 agencies shall undertake all feasible efforts to protect against any
17 future unauthorized conveyance or any change in federal public
18 land designation, including, but not limited to, any change in use,
19 classification, or legal status of any lands designated as federal
20 monuments pursuant to the federal Antiquities Act of 1906 (Pub.
21 Law 59-209).

22 (C) Notwithstanding Section 6206, the commission and the
23 recorder of the county in which the federal public land to be
24 transferred is situated shall not record any deed executed pursuant
25 to, or related to, the conveyance unless the commission certifies
26 that the conveyance meets the requirements of subparagraph (A).

27 (c) The commission shall ensure that the transferee of the federal
28 public land pursuant to a conveyance is solely responsible for all
29 costs associated with the management of those lands as well as
30 the cost in developing any infrastructure necessary for all future
31 uses of the lands.

32 (d) *This section does not apply to the conveyance of federal*
33 *lands pursuant to a conservation plan.*

34 SEC. 5. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 a local agency or school district has the authority to levy service
37 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

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